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DRL FOR A/S LOWENKRON

E.O. 12958: DECL: 03/15/2017

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SUBJECT: SCENESETTER FOR DRL A/S LOWENKRON'S MARCH 21  
MEETING WITH AZERBAIJANI FOREIGN MINISTER MAMMADYAROV

Classified By: Ambassador Anne E. Derse for Reasons 1.4 (b) and (d).

¶1. (C) As President Aliyev frequently notes in public and private meetings with Western officials, Azerbaijan is committed to Western values and has set itself the goal of developing as a market-based democracy, rooted in Euroatlantic structures. Aliyev and other senior Azerbaijani officials are candid in admitting that this decision is based on a calculated judgment that given Azerbaijan's history and geography, close ties to the West will maximize Azerbaijan's chances of preserving its sovereignty, independence and prosperity over the long term -- an orientation that appears to have been reinforced by recent developments with Azerbaijan's neighbors to the north and south. Azerbaijan's democratic aspirations are underscored in the range of commitments to democratic reform the GOAJ has made to key Western institutions, including the OSCE, the Council of Europe, NATO, the EU, and with bilateral partners. Senior Azerbaijani officials also readily agree that continued progress on democracy and human rights is a central element of our bilateral relationship.

¶2. (C) Despite this orientation, however, democracy and human rights is the main area in which US -- and more broadly, the West's -- expectations and Azerbaijani performance consistently and disappointingly differ. In 2006, while there were some positive developments, the GOAJ made notably limited progress and in some areas, moved backwards, on democratic reform. At the same time, the need for real progress is becoming increasingly urgent. As Azerbaijan's economy continues to grow at dizzying rates and government revenues explode, increased transparency, rule of law and government accountability are essential to stave off the destabilizing effects of such vast financial inflows, especially acceleration of existing severe corruption and worrying inflation. There is also some evidence that while the President still retains the confidence of the majority of the Azerbaijani people, disappointment is growing with the government's perceived failure to implement long-promised democratic reforms; effectively and equitably employ Azerbaijan's new oil wealth to tackle corruption, unemployment and significant social needs; and promote development in Azerbaijan's rural areas. Disappointment and poverty provide fertile ground for internal and external forces seeking to undermine Azerbaijan's democratic development and western orientation.

¶3. (C) For these reasons, near term progress on democratic reform is increasingly a necessity to maximize Azerbaijan's chances of economic and political success. Progress, in our view, is stymied by key elements of the ruling elite who continue to resist reform for personal political or financial reasons; by a belief even on the part of some reform-minded officials that overly precipitous change may open the door to

instability, especially given the acknowledged efforts by a range of external forces to influence developments in Azerbaijan; and by a lack of generalized understanding in the government and society of what constitutes democracy and an equally serious lack of capacity to implement democratic change. A range of democratic partners, both institutions and countries, are working with Azerbaijan on developing the capacity and understanding for successful democratic development. Because near term progress on democratic reform is increasingly critical to long-term stability and prosperity in Azerbaijan, we need to work in our bilateral dialogue on strengthening the political will of the government to take difficult but necessary reform steps.

¶4. (C) President Aliyev's agreement in December 2006 to conduct a results-oriented, realistic, and discreet dialogue on democratic reform as an integral part of a strengthened bilateral relationship is a key opportunity for us to help Azerbaijani leaders understand that further delay or backtracking on their commitment to democratic reform carries real risks, political and economic. Given the serious pressures, positive and negative, of Azerbaijan's new energy wealth and regional security developments, the GOAJ faces an important strategic choice now. The dialogue is also an opportunity for us to help the GOAJ, and President Aliyev in particular, to identify specific feasible steps that can be taken to improve the trend on democratic reform in Azerbaijan, and to offer our continued support. We believe that to the extent we can address legitimate concerns about Azerbaijan's independence and security, we will encourage greater progress on democratic reform.

¶5. (C) While presentable elections alone do not make a democracy, the 2008 Presidential election will in fact be the next time the world turns its eyes on Azerbaijan in a major

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way. President Aliyev, by all accounts, stands an excellent chance of winning handily in a fair fight. We need to use our dialogue to convince him to take that chance, and to work towards a 2008 election that will truly illustrate Azerbaijan's democratic commitment and maturity.

¶6. (C) Your March 21 discussions with Foreign Minister Mammadyarov will launch this process, setting the tone and content as we work with the GOAJ to develop a shared vision of Azerbaijan's democratic reform goals, specific, feasible next steps and how the US can best support them. We believe this dialogue should be organized around the GOAJ's new National Action Plan for Human Rights, issued pursuant to a December 29, 2006 Presidential Decree on Promoting Democracy and Human Rights (septel) and address five key areas in which there is a need for democratic progress: rule of law, political process, media freedom, respect for human rights, and an engaged, empowered citizenry. This format can be used to identify possible shared reform objectives in each area and secure Mammadyarov's commitment that he will raise them with President Aliyev along with our offer to support in every way possible GOAJ efforts to implement them. Azerbaijan's democracy commitments to the OSCE, Council of Europe, NATO and the EU provide an important framework. We recommend that wherever possible we support the steps recommended to the GOAJ by these institutions, with whom we are working increasingly closely in Baku. Finally, we recommend that you agree with Mammadyarov on next steps, to include a follow up visit by you to Azerbaijan, after he has had a chance to discuss with the President how to take our joint work on building democracy in Azerbaijan forward.

¶7. (C) In this cable, we outline our recommendations for concrete, short-term objectives in all five areas, for which we would like to seek Mammadyarov's agreement to raise with President Aliyev during the March 21 meetings. Broader, long-term objectives in all five areas were outlined in reftel.

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RULE OF LAW  
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18. (C) Widespread corruption in the court system and the low quality of judges and advocates continues to undermine the rule of law and deny citizens access to a functioning judiciary. We have seen limited improvement in the professionalism of the judiciary. Notably, in 2006, the Government recruited 55 new judges through a rigorous examination and testing process that met international standards. However, President Aliyev has not yet appointed these 55 persons to the bench. Equally important, the criminal defense bar is currently a Soviet-era Collegium system which politicizes and restricts the public's access to qualified and independent counsel.

Recommendations:

-- Urge the speedy appointment of the 55 judicial nominees in the interest of demonstrating GOAJ commitment to improving the judiciary's quality.

-- Urge that the GOAJ agree to abolish the current Collegium and replace it with a new international standard bar association based on a meritocratic principles; or, at a minimum, allow a new bar association to develop alongside the Collegium.

19. (C) The GOAJ plans to present Azerbaijan's new anti-corruption program at a May conference in Baku hosted by Transparency International. GOAJ has confirmed that it seeks input from an international anti-corruption working group, comprised of USG, COE, OSCE and Transparency International. We should applaud this positive development and ask Mammadayarov how else we can support early, concrete steps to tackle corruption.

Recommendation:

-- Underscore that implementation of existing conflict of interest laws is key to protecting the integrity of the public policy-making process and urge the GOAJ to present to parliament the following legislation in the first half of 2007: 1) a comprehensive Anti-Money Laundering and Counter Terrorist Financing Law; 2) a conflict of interests law; and 3) an ethics code for civil servants.

-- Seek GOAJ agreement that the Ministry of Justice will update, maintain and open to the public the legislative

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database created with USG funding.

-- Seek GOAJ commitment to implement existing financial disclosure laws by a certain date.

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POLITICAL PROCESS:ELECTIONS, PARLIAMENT, AND POLITICAL PARTIES  
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110. (C) Since Azerbaijan's November 2005 parliamentary elections, little has changed in Azerbaijan's political process and climate. Although there was some improvement in the conduct of the November 2005 elections and subsequent May 2006 re-run elections, progress on electoral reform ended there. The GOAJ is currently in dialogue with the Venice Commission regarding potential changes to the Electoral Code. It has yet to implement most of the electoral reform recommendations made by the OSCE/ODIHR. The GOAJ must continue its work on electoral reform, institutionalizing and building upon the hard-won procedural gains of the 2005 elections. The challenge will be to convince President Aliyev and his key advisors that, in domestic political terms, his personal popularity gives him the space to allow the democratic opening that is needed.

Recommendations:

-- Emphasize that international perception of Aliyev's legitimacy will ride heavily upon the manner in which the 2008 Presidential Elections are conducted, and that this is an opportunity Azerbaijan can seize to demonstrate its democratic maturity. Press for full implementation of the OSCE/ODIHR election reform recommendations in time for the 2008 elections to be conducted in full conformity. This is a key goal of the OSCE in Azerbaijan; the new OSCE Ambassador has already begun to discuss this with President Aliyev.

--Seek a timeframe for GOAJ implementation of COE recommended electoral code changes that ensure that election commissions are truly neutral and balanced bodies.

¶11. (C) The "new" parliament, which has now been seated for over a year, is off to a lackluster start, with little effort by the leadership to guide the legislative agenda or to make the legislative process more transparent and open. Although there are some reform-minded individual MPs, their efforts to increase the transparency and effectiveness of parliament have received no support from parliament's leadership. On the positive side, some reform minded MPs have begun reaching out to the USG, seeking greater engagement in order to help Parliament develop as an independent institution.

Strengthening Parliament as an independent, transparent and democratic branch of government -- particularly by opening the legislative process to public scrutiny and debate, and by empowering Parliament to conduct true oversight of executive branch activities -- could create a significant opening for public debate. In practical terms, the GOAJ has little to lose by giving more power to a body completely dominated by the ruling party.

Recommendations:

-- Urge that the GOAJ establish a body to work with reform-minded members of Parliament on a plan to take specific steps to strengthen Parliament's oversight and investigatory functions. As a first step, Mammadyarov himself could voluntarily begin to speak at Parliamentary commission meetings. (Parliament as currently structured does not hold hearings nor does it have subpoena powers.)

-- Urge that the Parliament be asked to make draft legislation publicly available and encourage MPs to seek opportunities to discuss potential changes with their constituents.

¶12. (C) The GOAJ must create the political space necessary for a vibrant political process to emerge; dialogue among the ruling and opposition parties is an important first step. While the major parties confirm their willingness to begin a new dialogue, no one has made the first step and it is clear a concerted international effort will be key to this process.

The OSCE Mission in Baku is prepared to take the lead in facilitating the dialogue. Separately, opposition political parties must be allowed to conduct routine party-building activities and exercise their right to peaceful freedom of assembly.

Recommendation:

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-- Urge strong GOAJ participation in a new political party dialogue, including appointment of a point person for the government to work with the OSCE. A strong show of GOAJ support will be essential at the start of the dialogue, and whoever represents the GOAJ must be fully empowered to make decisions on its behalf.

-- Urge that the GOAJ loosen restrictions on freedom of assembly by identifying and making available a number of

downtown sites that would be acceptable for political gatherings.

-- Urge the GOAJ to permit parties and civil society groups to conduct legal, peaceful gatherings without regard to their political persuasion.

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MEDIA FREEDOM  
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**¶13. (C)** Setbacks in media freedom, culminating in the temporary suspension of ANS TV and Radio last year, continue to hinder Azerbaijan's democratic development. The new OSCE Ambassador in Baku is ready to explore new strategies with the GOAJ and with the press for raising the quality of journalism and for addressing incidents of mutual concern. Options the OSCE is considering include a major expansion of journalism training programs with OSCE member state support and a new dialogue with the GOAJ on how to address and resolve problems with the media. There are also several steps the GOAJ should take now to begin to restore international confidence that the GOAJ intends meet its commitments in this field.

Recommendations:

Urge that the GOAJ:

-- Publicly and regularly affirm the vital role of the free media in a democracy.

-- Resolve ANS, outstanding regulatory disputes before the next round of regular democracy talks.

-- Ask President Aliyev to publicly renew the 2005 moratorium on libel suits against journalists by public officials as steps to decriminalize libel are considered.

-- Take more visible and vigorous steps to bring to justice those responsible for attacks on journalists; publicly condemn such attacks.

-- Redouble efforts to apprehend those responsible for the 2005 Huseynov murder.

-- Support the new OSCE Ambassador's renewed efforts to address media freedom by engaging with OSCE Baku early to develop a joint program.

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ENGAGED, EMPOWERED CITIZENRY  
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**¶14. (C)** Civil society in Azerbaijan is weak and fragmented, due both to its personality-driven nature and a lingering Soviet suspicion of non-governmental organizations.

Prominent, respected NGO leader Arzu Abullayeva recently announced the creation of a new Democracy Council in order to engage the GOAJ in a meaningful dialogue with moderate, nonpartisan NGO and civil society leaders. This initiative is consistent with the GOAJ's National Action Plan for the Protection of Human Rights, stated goal of working with the NGO community to foster political reforms. We should support efforts to get it up and running successfully.

Recommendation:

-- Ask that the GOAJ agree to work with the Democracy Council.

-- Suggest the Foreign Minister meet with the Democracy Council in April.

-- Ask the GOAJ to adopt the US NGO principles announced in December 2006.

-- Ask that the GOAJ establish an effort now to work with the US and other international partners to develop a civic

education curriculum for public schools, to teach students about their rights and their responsibilities in a democracy.

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HUMAN RIGHTS  
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¶ 15. (C) Comprehensive reform of the police force is key to improving Azerbaijan's human rights performance. The current Ministry of the Interior is mired in corruption and too often turns a blind eye to police abuse and misconduct and arbitrary police detention, particularly of members of the opposition, remains a problem. Public confidence in the police is very low and people perceive the Interior Minister to be a corrupt holdover from Heydar Aliyev's time. The GOAJ works closely with the OSCE Mission in Baku to advance police reform and has made limited progress in some areas. However, the scope of the OSCE's effort, even coupled with USG and EU assistance, is inadequate to be truly effective.

Recommendation:

-- Urge that the GOAJ adopt as soon as possible by Presidential Decree a major police reform and training program. Suggest that the GOAJ establish a working group with the OSCE and other interested international partners, including the US, to devise the program.

¶ 16. (C) Much of the public discussion of Azerbaijan's human rights record over the last year has been driven by two high-profile cases: the Yeni Fikir youth group and the group of 11 former GOAJ officials -- including ex-Ministers Farhad Aliyev and Ali Insanov -- accused of plotting a coup in the run-up to Azerbaijan's November 2005 parliamentary elections.

The Yeni Fikir group's 2006 trial exhibited a complete absence of due process and did not meet international standards.

Recommendation:

-- Urge Mammadyarov to ask President Aliyev to pardon these three persons.

¶ 17. (C) The corruption and coup plot case has continued to attract public and international attention. This is particularly the case for Farhad Aliyev, who remains in pretrial detention, because of his lawyers, advocacy efforts in Washington and European capitals. The GOAJ separated the corruption charges from the coup plot charges in Insanov's case and has not determined whether and when to go forward with the coup plot case. Insanov's corruption trial began in mid-February and is ongoing and has more closely adhered to international standards for a fair judicial proceeding. Commentators believe that Insanov will be convicted of corruption as he was reputed to be among the most corrupt GOAJ officials while in office. They also believe the Insanov case might be precedent for Aliyev and the other detainees. Whatever the final charges, Aliyev's trial is expected to begin in April and will attract considerable attention.

¶ 18. (C) Insanov and Aliyev both claim to be political prisoners, although few outside of their advocates and supporters agree with this characterization. Since it remains unclear on what charges the GOAJ will try Aliyev and the other detainees, we should wait to assess the legitimacy and fairness of the future proceedings before passing judgment on this question.

Recommendation:

-- Stress the importance of ensuring that all persons in detention are accorded due process rights and a fair trial consistent with international standards.

¶19. (C) Separately, the Council of Europe reports that at least three persons from its comprehensive 2003 Political Prisoners Experts, report on Azerbaijan remain in prison. Furthermore, local human rights activists assess that there are between 40 to 50 persons in detention or imprisoned for what the activists believe to be politically motivated reasons. It is difficult to determine which of the 40 to 50 persons the activists, report meet international definitions of a political prisoner without a detailed investigative analysis. With the GOAJ,s consent and support, the Council of Europe prepared such an experts, report in 2003 that was effective in identifying and securing the release of political prisoners.

Recommendation:

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-- Encourage the GOAJ to invite the Council of Europe experts, group to return to Azerbaijan in order to update and revise its 2003 political prisoners report to enable Azerbaijan to transparently resolve any remaining cases of politically-motivated detentions or imprisonment cases.

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